

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-19, 66, 68, and 71-72 are pending in the application, with claims 1, 71 and 72 being the independent claims.

Claims 1, 2, 4-10, 12-17, 19, 66, 68, 71 and 72 stands rejected under 35 U.S.C. § 103(a) as obvious over Drevfors (US 6,256,964, hereafter Drevfors) in view of Helmut (US 5,860,461, hereafter Helmut). Claims 3, 11 and 18 stand rejected under §103(a) as obvious over Drevfors in view of Helmut and further in view of Applicant's Admitted Prior Art (hereafter AAPA).

Based on the above amendment and the following Remarks, Applicants respectfully request the reconsideration of the outstanding rejections.

In the office action dated July 12, 2007, the Examiner states, "it is construed that that the filling location comprises station D and station E as disclosed in Fig. 1 of Drevfors." (page 2 of the office action) Notwithstanding the propriety of such an interpretation of Drevfors, as noted in the previous response, claim explicitly sets forth that the package is not further displaced to the filling location. Drevfors clearly shows in figure 1 that the package must be transported from station D to station E to permit filling. Further, column 4, lines 50-58 of Drevfors recite,

Hereby, the sterilization agent will, in a known manner, be vaporized and depart from the interior of the packaging container. The pipe 10 is preferably provided with a surrounding sleeve entrapping and leading off the vaporised sterilisation agent. After completed sterilisation, the pertinent packaging container is displaced to station E, where a vertically movable filler pipe 11 is lowered into the packaging container and connected to a source of the intended contents.

Therefore, Drevfors does not and cannot teach the packet NOT being displaced. The Examiner states on page 3 of the office action, "it is construed that the Drevfors [sic] modified by Helmut is fully capable of performing the step of filling the package at the same location as recited in claim 1." There is no support for such a construction and Drevfors clearly states that the package must be displaced, as noted in the above passage. Accordingly, withdrawal of the rejection and

allowance of the claim is respectfully requested.

Claims 2-19, 66, and 68 depend from claim 1 and are allowable for at least the reason stated above.

Claim 71 recites that the package “consists essentially of one opening, the opening being a filling aperture, and a membrane fitted over the filling aperture. . . . The prior art does not teach such a configuration. Drevfors does not teach a bottle with a membrane as claimed and merely discloses a traditional bottle. Therefore, Drevfors does not enable the package including essentially open opening as claimed. The Examiner relies on Helmut for this aspect of the claimed invention. Helmut, however, discloses technology where multiple openings in the package are required. That is, in the technology that Helmut discloses, a configuration with one opening, covered by the membrane as claimed, and being the filling aperture is not disclosed, suggested or enabled. All of Helmut’s containers require more than one opening. Helmut states that cold aseptic filling of a sterile beverage into a sterile container in bottles or cans has been unachievable, “So far, this has proved to be unachievable in the prior art . . . and has only succeeded in the case of cardboard box containers for filling milk and fruit juices.” *Col 1: lines 62-65.* Helmut then proposes to solve this problem of aseptic filling of packages by using containers with multiple openings and does not enable use of containers with essentially one opening as claimed. As such, the prior art, neither alone nor in combination sets forth the claimed container.

Claim 72 recites, “moving the package through an inlet into an enclosure . . . moving the package out of an outlet from said enclosure to a filling location” The prior art does not teach such a limitation. Even if, *arguendo*, the processing plant (3) shown in the figure of Drevfors is considered an enclosure, there is absolutely no teaching that the package is moved

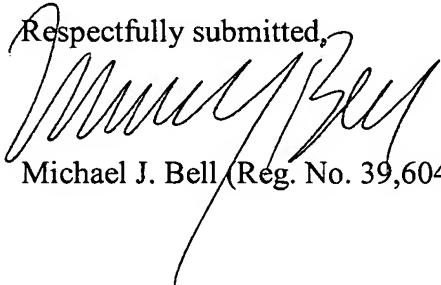
out of it and into a filling location. Clearly, the package remains in the processing plant (3) until completion of the filling and is then removed from the plant to carriers via conveyor (13). As such, the prior art teaches away from removing the package from an enclosure to a filling station.

In view of the aforementioned amendments and explanation regarding the rejections under §103, it is requested that the rejections be withdrawn and the claims permitted to issue.

Conclusion

Applicants respectfully submit that the foregoing remarks demonstrate that entry of these amendments places the present application in condition for allowance, or in the alternative, better form for appeal. All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable entry and consideration of this Reply is respectfully requested.

Respectfully submitted,

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